

1 LARISSA D KOSITS, SBN:201764
2 California Department of Insurance
3 45 Fremont St., 21st Floor
4 San Francisco, CA 94105
5 Telephone: (415) 538-4132
6 Facsimile: (415) 904-5490

7 Attorney for Petitioner
8 CALIFORNIA DEPARTMENT OF INSURANCE

9 **BEFORE THE INSURANCE COMMISSIONER**
10 **OF THE STATE OF CALIFORNIA**

11
12 In the Matter of the Rates, Rating Plans, or
13 Rating Systems and the Certificate of
14 Authority of

15 SEAVIEW INSURANCE COMPANY,

16
17 Respondent.
18
19

CDI File No. NC-2018-00003

NOTICE OF NONCOMPLIANCE
(Insurance Code §§ 1858 et seq.); and

DEMAND
(Insurance Code § 1858.07.).

20
21 The Insurance Commissioner of the State of California (“Commissioner”) in his official
22 capacity HEREBY NOTIFIES Respondent, SEAVIEW INSURANCE COMPANY, that THERE
23 IS GOOD CAUSE TO BELIEVE THAT the SEAVIEW INSURANCE COMPANY is in
24 violation of various provisions of California law, including but not limited to California Insurance
25 Code §§ 1861.05(a) and 1861.03(a), and California Code of Regulations, Title 10, §§ 2360.0(b)
26 and 2360.2, including failure to maintain eligibility guidelines that are sufficiently detailed to
27 determine the appropriate rate or rating plan for each insured in its surety line of insurance or
28 failing to maintain eligibility guidelines for its surety line of insurance at all.

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2 **JURISDICTION AND PARTIES**

3 1. Respondent, SEAVIEW INSURANCE COMPANY (“Seaview”), domiciled in
4 California, holds a Certificate of Authority to transact the business of surety, as well as 15 other
5 lines of business, in the State of California, pursuant to § 700 et seq. of the California Insurance
6 Code.

7 2. California Insurance Code § 700(c) provides that, after the issuance of a certificate
8 of authority, the holder must continue to comply with all requirements set forth in the Insurance
9 Code and all other applicable laws of this State.

10 3. California Insurance Code §§ 730, 733, 734, and 736 grant the commissioner
11 access to all records of an insurer and the power to examine the affairs of every person engaged in
12 the business of insurance. California Insurance Code §§ 1857.2, 1857.3, and 1857.4 authorize the
13 commissioner to examine every rate and rating system used by the insurer to ascertain whether
14 they comply with the requirements and standards of the Insurance Code.

15 4. California Insurance Code §1858.07(a) provides that any person who uses any
16 rate, rating plan, or rating system in violation of Division 1, Part 2, Chapter 9 of the California
17 Insurance Code, is liable to the state for a civil penalty not to exceed five thousand dollars
18 (\$5,000) for each act, or, if the act or practice was willful, a civil penalty not to exceed ten
19 thousand dollars (\$10,000) for each act. The commissioner shall have the discretion to establish
20 what constitutes an act.

21 5. California Insurance Code §1861.05(a), requires that no rate shall be approved or
22 remain in effect which is excessive, inadequate, unfairly discriminatory or otherwise in violation
23 of Chapter 9 of the California Insurance Code.

24 6. California Code of Regulations, Title 10, §2360.0(b), defines “eligibility
25 guidelines” as specific, objective factors, which are selected and/or defined by an insurer, and
26 which have a substantial relationship to an insured’s loss exposure.

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1 7. California Code of Regulations, Title 10, §2360.2 requires that an insurer maintain
2 objective, specific, *eligibility guidelines* for every line of insurance offered for sale to the public
3 (emphasis supplied).

4 8. California Insurance Code §1861.03(a), makes clear that the business of insurance
5 shall be subject to the laws of California applicable to any other business, including but not
6 limited to the Unruh Civil Rights Act.¹

7
8 **BACKGROUND FACTS AND FACTUAL ALLEGATIONS**

9 9. The allegations herein result from an examination by the California Department of
10 Insurance Field Rating and Underwriting Bureau (“FRUB”).

11 10. The examination focused on Seaview’s rating and underwriting practices in the
12 surety line of business.

13 11. The examination’s “review period” was July 1, 2016 through September 30, 2016.

14 12. The Department undertook the examination to determine whether Seaview’s
15 operating procedures conform to provisions of the California Code of Insurance, the California
16 Code of Regulations, and other applicable insurance law.

17 13. The Department prepared a “Report of the Market Conduct Examination of the
18 Rating and Underwriting Practices, As They Relate to Laws Other Than CIC § 790.03 of the
19 Seaview Insurance Company (NAIC group #10004)”. The Report was adopted on July 9, 2018.

20 14. The Report is written in a “report by exception” format and contains only a
21 summary of the relevant data regarding the lines of the business examined and of the non-
22 compliant or problematic activities or results discovered by said examination. The report is not
23 intended to be a comprehensive overview of Seaview’s practices.

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25
26 ¹ California Civil Code § 51

(a) This section shall be known, and may be cited, as the Unruh Civil Rights Act.

27 (b) All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry,
28 national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language,
or immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all
business establishments of every kind whatsoever.

1 15. The Department examined 65 in-force bonds and 25 declined bonds that were
2 issued, renewed, cancelled, non-renewed, or declined during the review period, as described
3 above in line item 11.

4 16. The examination included a review of Seaview's general practices and procedures
5 related to rating, underwriting, advertising and marketing, and risk selection.

6 17. The examination included a review of the rates, rating plans, and underwriting
7 rules made by or adopted by Seaview for use in California. This included a review of records of
8 data, statistics, or information maintained by Seaview in support of or relating to said rates and
9 rules.

10 18. The examination included a review of the application of Seaview's rates and rules
11 by examining bonds and related records, including forms, in order to evaluate Seaview's rating,
12 underwriting, and risk selection practices.

13 19. The examination included a review of Seaview's advertising materials. Said
14 materials included ads in the yellow pages, television commercials, the signs hanging in Petco
15 Park [a professional baseball field in San Diego], and Seaview's exclusive agent's internet site,
16 aladdinbailbonds.com.

17 20. The examination included a review of the Department's market analysis results, a
18 review of consumer complaints and inquiries received by the Department during the three year
19 period prior to the start of the examination, a review of prior market conduct examination reports
20 on Seaview, and a review of prior enforcement actions by the Department regarding Seaview.

21 21. Seaview failed to use specific guidelines for collateral requirements. Seaview
22 continues its non-compliance by failing to implement specific and objective guidelines regarding
23 collateral requirements associated with obtaining a bail bond even after receiving the
24 Department's results from the examination. The Department examiner who reviewed Seaview's
25 files found no eligibility guidelines relating to collateral requirements or evidence of eligibility
26 guidelines relating to collateral requirements even though Seaview is required to maintain
27 eligibility guidelines under California Code of Regulations, Title 10, §§ 2360.0(b) and 2360.2.
28

1 underwriting guidelines violated California Insurance Code §§1861.05(a) and 1861.03(a) as well
2 as California Code of Regulations, Title 10, §§ 2360.0(b) and 2360.2.

3 WHEREFORE, the Department notifies Respondent of the following:

4 1. To the extent Seaview's unlawful practices are ongoing at the time of delivery of
5 this Notice, Seaview must immediately cease from engaging in excessive, inadequate, unfairly
6 discriminatory or behavior otherwise in violation of Chapter 9 of the California Insurance Code,
7 pursuant to California Insurance Code §1861.05(a) and or in violation of the Unruh Civil Rights
8 Act pursuant to California Insurance Code §1861.03(a); and,

9 2. To the extent Seaview's unlawful practices are ongoing at the time of delivery of
10 this Notice, Seaview must correct its noncompliance within not less than ten (10) days after
11 receipt of this Notice. Seaview must provide proof of system-wide correction, or other response
12 permitted by California Insurance Code section 1858.1, not less than ten (10) days after receipt of
13 this notice.

14 3. THE DEPARTMENT FURTHER NOTIFIES RESPONDENT that if Seaview
15 fails to make an adequate or timely response, the Department will set a public hearing pursuant to
16 California Insurance Code sections 1858.2 and 1858.3. If, at the conclusion of the hearing, the
17 Commissioner finds that the facts are as alleged above and constitute violations of the Insurance
18 Code and/or Code of Regulations, as set forth, he may issue an order for payment of monetary
19 penalties and any other corrective action as he may deem appropriate. (California Insurance
20 Code, §§ 1858.07, 1859.1.)

21 4. THE DEPARTMENT FURTHER NOTIFIES RESPONDENT that whether the
22 failure to comply with the Commissioner's Order as set forth above is found to be unintentional
23 or willful, either will result in the Department seeking civil penalties pursuant to California
24 Insurance Code §1859.1(a) in addition to whatever penalties arise under California Insurance
25 Code §1858.07.

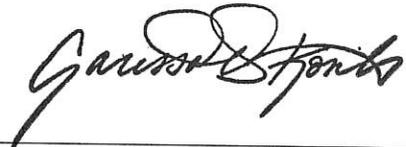
26 5. THE DEPARTMENT FURTHER NOTIFIES RESPONDENT that the
27 Commissioner may, as a result of actions as set forth above, and pursuant to California Insurance
28 Code §1858.07, seek monetary penalties up to:

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- a. Five thousand dollars (\$5,000.00) for each act of unfair competition or unfair or deceptive practice alleged above that is proved to be non-willful; and
- b. Ten thousand dollars (\$10,000) for each act of unfair competition or unfair or deceptive practice alleged above that is proved to be willful.

Dated: August 10, 2018

CALIFORNIA DEPARTMENT OF INSURANCE

By: 

LARISSA D. KOSITS
Senior Staff Counsel

In the Matter of the Rates, Rating Plans, or Rating
Systems and the Certificate of Authority of:

SEAVIEW INSURANCE COMPANY,

Respondent.

DECLARATION OF SERVICE:
BY MAIL

File No. NC-2018-0000-3

I am over the age of 18 years and not a party to this cause.

I am an employee at the Department of Insurance, State of California, employed at 45 Fremont Street, 21st Floor, San Francisco, CA 94105.

On August 10, 2018, at San Francisco, California, I sealed into an envelope, postage there upon fully prepaid, true copies of the following documents in the above-entitled matter; said copies were addressed to below. I placed the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day, that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

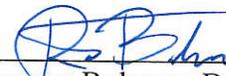
NOTICE OF NONCOMPLIANCE, DEMAND, and DECLARATION OF SERVICE
were mailed to:

Seaview Insurance Company
1000 Aviara Parkway, Suite 300
Carlsbad, CA 92011

BY CERTIFIED & FIRST-CLASS MAIL
7018 0040 0000 1600 5538

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 10, 2018 at San Francisco, California.



Roanne Bolanos, Declarant